

HOUSE BILL 1721
By McMillan

AN ACT to amend Tennessee Code Annotated, Section 49-8-117,
relative to grievance procedures in higher education.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 49-8-117(b)(3), is amended by
deleting the present subdivision in its entirety and substituting the following:

(b)(3) Any complaint about demotion, suspension without pay, or termination for cause shall receive a hearing covered under the provisions of the Tennessee Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, Part 3. At that hearing and at hearings at all levels of the grievance procedure concerning any demotion, suspension without pay, or termination for cause, the burden of proof shall be upon the appointing authority to establish by a preponderance of the evidence that the adverse job action at issue should not be reversed or reduced in severity because the adverse job action was progressive discipline beginning at the lowest appropriate step for a proven area of misconduct or, alternatively, a job furlough, demotion, or termination pursuant to a bona fide lay-off or reduction-in-force plan. In issues involving unlawful discrimination and harassment, the employee may choose a hearing under the above act or the panel hearing. A grievant who gains reinstatement or a reduction in disciplinary action or who is otherwise successful in the grievance proceeding shall be awarded attorney fees and legal expenses at the prevailing market rate for such legal

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representation as is received by the grievant in connection with the job grievance or its judicial appeal.

SECTION 2. Tennessee Code Annotated, Section 49-8-117(b)(5), is amended by deleting the subdivision in its entirety and by substituting the following:

(b)(5) The grievance procedure shall include no more than four (4) steps to finality. If at any level the decision-maker rules in favor of the grieving employee, it shall order the employee to be reinstated or made whole, or both, without loss of pay or benefits. The decision-maker shall retain jurisdiction for purposes of interpretation and enforcement over a final decision until such time as the provisions of the decision are carried out and all claims for penalties or interest, or both, as provided herein are settled. In any case in which a successful grievant has been awarded reinstatement, back pay or other award, the state agencies or departments or higher education units or other agencies involved shall have a period of thirty (30) calendar days from the date of the final decision within which to provide reinstatement, back pay, and/or other awards. In the event that this time limit is not met by the governmental unit involved, the grievant shall be entitled to an additional day of pay for each work day that reinstatement or payment is delayed beyond the limit set forth above inclusive of the day that the grievant receives the late paid reinstatement, benefit or award.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.